

REMARKS

Claims 29, 30, 32, 33, 35, 36, 38, 41-56, and 58-92 are pending. By this amendment, claims 29, 48, 63, 63, 65, 73, 86, 87 and 88 have been amended, and claims 89-93 have been newly added. No claims have been cancelled. Support for the instant amendments and new claims is provided throughout the as-filed application. Thus, no new matter has been added. In view of the following comments, allowance of all the claims pending in the application is respectfully requested.

INTERVIEW SUMMARY

As a preliminary matter, Applicants would like to express appreciation for the courtesies extended by Examiner Madamba to the undersigned during the telephonic interview conducted on March 1, 2010 (hereinafter the "Interview"). The substance of the Interview is incorporated into the remarks below and constitutes Applicants' record of the Interview.

REJECTIONS UNDER 35 U.S.C. § 103

I. Claims 29, 30, 35, 36, 38, 41-49, 52-56, 58-61, 63, 65-74, 77-85, and 87 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 7,206,778 to Bode, *et al.* (hereinafter "Bode") in view of U.S. Patent No. 6,718,366 B2 to Beck, *et al.* (hereinafter "Beck") and further in view of U.S. Patent No. 5,815,830 to Anthony (hereinafter "Anthony");

II. Claims 58-61, 63, 82-85, and 87 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bode in view of Beck and further in view of Anthony, and U.S. Patent Application Publication No. 2001/0049688 A1 to Fratkina, *et al.*;

III. Claim 32 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bode in view of Beck in view of Anthony, and further in view of U.S. Patent No. 6,976,018 to Teng, *et al.* (hereinafter "Teng");

IV. Claim 33 was rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bode in view of Beck in view of Anthony, and further in view of U.S. Patent No. 7,185,001 to Burdick, *et al.* (hereinafter "Burdick");

V. Claims 50, 51, 75, and 76 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bode in view of Beck and further in view of Anthony and the Examiner's invocation of Official Notice; and

VI. Claims 62, 64, 86, and 88 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Bode in view of Beck in view of Anthony, and further in view of U.S. Patent No. 5,873,056 to Liddy, *et al.* (hereinafter "Liddy").

Applicants disagree with the propriety of these rejections. However, solely in an effort to expedite prosecution, Applicants have amended independent claims 29 and 65 to further clarify aspects of the claimed invention.

Independent claim 29 and 65 recite, *inter alia*, the features of:

automatically determining from the monitored communication, in real-time, *one or more topic words* associated with the monitored communication.

[Emphasis added].

The aforementioned rejections are improper because Bode, Beck and Anthony, either alone or in combination, do teach or suggest *at least* these features of claims 29 and 65.

For example, as pointed out during the Interview, many of the features which the Examiner relies upon Bode to allegedly teach are apparently related to a customer relationship management (CRM) system. [See Bode, col. 4, lines 55-56 (the features discussed in U.S. Patent No. 6,711,585, which are described by Bode at column 5, lines 6-15, relate to a CRM system); col. 7, lines 35-40 (noting that the search engine 410 shown in Figure 4 uses "a text query and/or other information obtained during a user's session"); col. 9, lines 48-52 (noting the same for the method illustrated in Figure 5)]. Such systems appear to monitor communications

between the user and the CRM system only. This, however, is apposite to the recited invention of claims 29 and 65 (i.e., two human individuals communicating and an automated monitoring system).

As to communications between humans, Bode discloses that "... a user may place a telephone call to an application engineer or other service personnel," for instance, when a problem with a CRM arises. [Bode, col. 1, lines 61-65 (discussing problems with then prior art)]. Yet, Bode does not teach or suggest monitoring such a communication, let alone "automatically determining from the monitored communication, in real-time, one or more topic words associated with the monitored communication."

In addition, it appears that the Examiner *concedes* that Bode does not disclose "... the additional recited features of automatically monitoring, via the first interface, a communication *between a user associated with the remote client and at least one other individual*; and automatically filtering, searching and proving results in real-time during the communication," and instead relies on Beck to allegedly teach these features. [Office Action, pages 3-4, emphasis in original].¹

Assuming *arguendo* that it was proper to combine Bode with Beck and/or Anthony (which Applicants do not concede), neither Beck or Anthony overcome the deficiencies of Bode set forth above.

¹ During the Interview, the undersigned asked the Examiner whether the above-statement (and similar statements made) in the Office Action were an admission that the Examiner believed that the reference did not teach these features. The Examiner indicated that this statement was not, and was merely an indication that he was further relying on the additional reference, alternatively or additionally, to show these features. In fact, the Examiner indicated that the former reference might still teach these features. Even so, this sort of ambiguous examination is improper, and contrary to U.S. patent law and the Office's examination guidelines. To be sure, to establish a *prima facie* case of obviousness, the Examiner must make certain factual inquiries, including ascertaining the differences between the prior art and the claims at issue. See *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Office personnel fulfill the critical role of factfinder when resolving the *Graham* inquiries. MPEP § 2141; see also MPEP § 706.02(m) (providing form paragraphs for making rejections under § 103(a)). Moreover, "[i]t is important for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply." MPEP 706.02(j). To later conclude that the reference now teaches these features would be contrary to this policy.

To the extent that Beck teaches monitoring live interactions between individuals, Beck teaches that "... dialog associations may be created from stored data with additional dialogs being added to the association in real-time as they occur with respect to live interactions." [Beck, col. 46, lines 32-34]. At most, it appears from this passage of Beck that live calls may be associated with previous calls. Moreover, with regard to searching, Beck discloses that *stored data* may be searched using "pre-defined words or phrases." [See Beck, col. 47, lines 1-5, emphasis added]. And, more particularly, Beck discloses that "[s]earch function 330 accepts input parameters entered by researcher 320 such as a word, word association, phrase, Model number, and the like designed to associate otherwise unrelated dialogs." [Beck, col. 47, lines 8-11, emphasis added]. However, Beck does not teach or suggest "automatically determining from the monitored communication, in real-time, *one or more topic words associated with the monitored communication*" (emphasis added).

In addition, it appears that the Examiner *concedes* that Bode and Beck do not disclose "... the additional recited features of 'automatically searching at least one data source in real-time during the communication *for the one or more topic words appearing in the monitored communication ..*'" and instead relies on Anthony to allegedly teach these features. [Office Action, page 5, emphasis in original].²

However, Anthony does not teach or suggest these features either. For example, Anthony makes no mention or suggestion of monitoring a communication between human individuals. Rather, Anthony teaches a method for generating links to multimedia topic objects. [See Anthony, Abstract]. First, a database is constructed in which a user defines the reference name for each topic. [See Anthony, col. 4, lines 40-44]. Next, a user may interrogate the topic database for a topic used for cross-reference data found in the database. The topic to be used for interrogating the database, however, is selected by the user. [See Anthony, col. 4, lines 56-61]. Accordingly, Anthony does not teach or suggest "automatically determining from the

² See footnote 1, supra.

monitored communication, in real-time, *one or more topic words* associated with the monitored communication." (emphasis added).

For *at least* the reason that the cited portions of Bode, Beck, and Anthony, either alone or in combination, do not disclose, teach, or otherwise render obvious each and every claim aspect, the rejection of independent claims 29 and 65 is improper and must be withdrawn. Claims 30, 35, 36, 38, 41-49, 52-56, 58-61, 63, 66-74, 77-85, and 87 depend from claims 29 and 65, respectively and therefore are also patentable over the cited portions of the relied upon references for the reasons noted above with respect to claims 29 and 65, as well as for the features they recite individually.

Claims 62, 64, 86, and 88

During the Interview, the Examiner indicated that the features of (i) refining a topic vector, and (ii) applying at least one tunable decay parameter curve to a topic vector, as further recited in claims 62, 64, 86 and 88, *appear* to be allowable subject matter. Thus, for *at least* this reason, the rejection of claims 62, 64, 86 and 88 is improper and should be withdrawn.

NEW CLAIMS

Claims 88-92 depend from claims 29 and 65, respectively and therefore are also patentable over the cited portions of the relied upon references for the reasons noted above with respect to claims 29 and 65, as well as for the features they recite individually.

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CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

If an extension of time is necessary to prevent abandonment of this application, then such an extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required (including fees for net addition of claims) are hereby authorized to be charged to **Deposit Account No. 033975** (Ref. No. **042846-0312967**).

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